

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR IT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court

District

Brockton Court

Name

Entendieu Bultumer

Prisoner No.

0303030

Case No.

03-12561-REK

Place of Confinement

Suffolk County House of Correction

Name of Petitioner (include name under which convicted)

Name of Respondent (authorized person having custody of petitioner)

ENTENDIEU BULTUMER v. TENS

04 10138 REK

The Attorney General of the State of:

Massachusetts

MAGISTRATE JUDGE

Gould

PETITION

- Name and location of court which entered the judgment of conviction under attack Brockton District Court 215 Main St, Brockton, MA, 02301
- Date of judgment of conviction May 29, 1997
- Length of sentence 36 days serve
- Nature of offense involved (all counts) Possession with intention to distribution, Drug violation within a school zone, Conspiracy to violate the controlled substance Act
- What was your plea? (Check one)
 - (a) Not guilty ☒
 - (b) Guilty ☐
 - (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:
- If you pleaded not guilty, what kind of trial did you have? (Check one)
 - (a) Jury ☐
 - (b) Judge only ☒
- Did you testify at the trial?
 - Yes ☐
 - No ☒
- Did you appeal from the judgment of conviction?
 - Yes ☒
 - No ☐

FILED
IN CLERKS OFFICE
2004 JAN 16 A 10:46
U.S. DISTRICT COURT
DISTRICT OF MASS.

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9. If you did appeal, answer the following:

- (a) Name of court Brockton District Court
- (b) Result My Attorney at the time never finish the job.
- (c) Date of result and citation, if known Revise/Revoke was entered on 6/15/97, but no result was given
- (d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court Brockton District Court
- (2) Nature of proceeding Emergency Motion for a verdict of not Guilty in front of David G. Nagle, First Justice in Brockton Court. On September 9, 2003
- (3) Grounds raised There was insufficient evidence to prove the alleged substance met the definition of G.L.c 94C.

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(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☒ No ☐

(5) Result Denied by Judge David G. Nagle

(6) Date of result September 12, 2003

(b) As to any second petition, application or motion give the same information:

(1) Name of court Commonwealth of Massachusetts Appeals Court

(2) Nature of proceeding Motion to stay the Direct Appeal

(3) Grounds raised the correction to the court

(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☐ No ☒

(5) Result Still pending

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc.

Yes ☐

No ☒

(2) Second petition, etc.

Yes ☐

No ☒

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting the same.
Caution: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Conviction obtained by the ~~unconstit~~ unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
Supporting FACTS (state briefly without citing cases or law) The prosecutor never

presented the search warrant that the officers obtained to enter my premises. He never presented a Certificate of Drug Analysis of the controlled substance which was believed to be crack cocaine. Also the drug (crack cocaine) / the money (\$60 dollars US currency) was never presented before / during the trial.

B. Ground two: Conviction obtained by use of evidence obtained pursuant to unlawful arrest.

Supporting FACTS (state briefly without citing cases or law) When I noticed police officers in my apartment upon arrival. I asked them what are they doing in my place. The officers told me they had a search warrant for the premises. No search warrant was ever shown / given to me at any time, and also no drugs (crack cocaine) / money (\$60 US currency) was ever presented by the arresting officers / Commonwealth.

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C. Ground three: Conviction obtained by use of evidence gained pursuant to an unconstitutional search & seizure
 Supporting FACTS (state briefly without citing cases or law) The arresting officers stated they had a search warrant for drugs, but when I asked by me to see the warrant, I ~~if~~ was told "Don't worry about it we got one". Even when I was placed under arrest for drugs (crack cocaine), I asked them to show me the drugs / the warrant. I was told once again "we got you / we got it, don't worry about it."

D. Ground four: _____

Supporting FACTS (state briefly without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: My Attorney presented the fact that there was lack of evidence, no search warrant entered, and no drug Analysis in State Court.

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
 Yes ☒ No ☐

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

- (a) At preliminary hearing Attorney John T. Plouffe (508) 697-8650
40 Main St. Bridgewater, MA 02324
- (b) At arraignment and plea "Same"

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- (c) At trial same "
- (d) At sentencing " same "
- (e) On appeal " same "
- (f) In any post-conviction proceeding Attorney Michael H. Nam-Krane
67 Federal Ave. Quincy, MA 02169 (617) 890-1111
- (g) On appeal from any adverse ruling in a post-conviction proceeding " same "

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

1 5 2004
(date)

Emmanuel Bullen
Signature of Petitioner



RECORD OF CRIMINAL CASE

DOCKET NO.

9715 CR 001385

District Court of Massachusetts
District Court Department

6/18/97
6/18/97
10/11/02
10/11/02
10/11/02
10/11/02
10/11/02
10/18/02
10/18/02
10/18/02
10/18/02
10/18/02

TUA

MD

MOTION TO REVISE AND REVOKE FILED BY ATTY
PLOUFFE FOR LATER DATE
DEFENDANT'S MANDATORY MOTION FOR A NEW TRIAL
PURSUANT TO M.G.L. C. 278, SEC. 29D
FILED BY DEFENDANT TOGETHER WITH
MOTION TO APPOINT COUNSEL
JUDGE NAGLE
AFTER REVIEW OF COURT DOCUMENTS DEFENDANT
WAS CONVICTED BY A JURY WAIVED TRIAL;
THERE WAS NO PLEA ON THIS CASE
REQUIRING AN ALIEN WARNING.

KML

DGN

MOTION DENIED

Motion for Revise/Revoke

*I was denied
for the
motion for
Counsel*

PAGE

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DATE DOCKET PRINTED

10/18/02

A TRUE
COPY
ATTEST

CLERK/MAGISTRATE

Ken P. Reader